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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/035,892	12/24/2001	Jonathan K. Jensen	FSP:0012	4249

7590 12/31/2003  
Charles A. Mirho  
112 W. 37th St.  
Vancouver, WA 98660

EXAMINER

SZUMNY, JONATHON A

ART UNIT	PAPER NUMBER
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3632

DATE MAILED: 12/31/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	Application No.	Applicant(s)	
	10/035,892	JENSEN, JONATHAN K.	
	Examiner	Art Unit	
	Jon A Szumny	3632	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 10 July 2003.
- 2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 6-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 9,10 and 13-15 is/are allowed.
- 6) ☒ Claim(s) 6-8,11 and 12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. §§ 119 and 120**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All   b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                             | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____                                    |

This is the third office action for application number 10/035,892, Folding Leg System, filed on December 24, 2001.

***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on July 10, 2003 has been entered.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 6-8 are rejected under 35 U.S.C. 102(b) as being anticipated by Parsons '025.

Parsons '025 discloses a folding leg system (figures 1-3, specification lines 7-8, inherently more than one leg and bracket, also, page 1, lines 97-102) comprising a first bracket (figure 1) mounted on a surface and coupled to a first leg (figure 1) via a first pivot bolt (figure 1) such that the leg rotates between up and down positions, a second

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bracket (figure 1) mounted on a surface and coupled to a second leg (figure 1) via a second pivot bolt (figure 1) such that the leg rotates between up and down positions; wherein the second bracket has a first section in which the second leg may rotate to a down position from an up position and a second section in which the leg is prevented by contact with an end of the leg (near 18, the Examiner is interpreting this area of the leg to still be considered the "end") from rotating into the down position from the up position; wherein the first bracket is inherently mounted on the surface across from the second bracket such that the first leg does not contact the second leg when the legs are in the up position and the second leg is in the second section of the second bracket; wherein the first bracket has first and second holes (figure 1); wherein the second bracket has a third hole (figure 1).

Claims 11 and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Wallin '803.

Wallin '803 discloses a bracket (figure 1) comprising at least two sides (figure 1), each side comprising an aligned first hole (figure 1), each side comprising an aligned slot (figure 1), at least one side comprising an aligned second hole (figure 1), at least one side comprising an aligned third hole (figure 1), and a tab (figure 1).

***Allowable Subject Matter***

Claims 9, 10, 13, 14 and 15 are allowed.

Reasons for allowance for claims 9, 10 and 13-15 can be found in a previous office action.

***Response to Arguments***

Applicant's arguments filed July 10, 2003 have been fully considered but they are not persuasive.

On line 12 of page 6 through 5 of page 7 of the remarks, the applicant asserts that the Office Action (Examiner) is equating the "first and second sections" of the present claims to the brackets 2 and 5 of Parsons. This is not true. The Examiner previously attached (in the first office action) a copy of figure 1 clearly indicating what is being considered the first and second sections; the Examiner has attached a duplicate of this copy with this office action.

On lines 6-10 of page 7, the applicant contends that Parsons prevents rotation by making contact with a side of the leg while claim 6 of the present invention prevents rotation by making contact with an end of the leg, "end" referring to that part of the leg that would be considered the top when the leg is in a vertical position. Because claim 6 as presently amended merely recites the "end" of the leg, the Examiner considers the area of the leg preventing rotation to also be the "end." For instance, if the applicant further recited in the claim "an end of the leg having a surface perpendicular to the longitudinal direction of the leg," the teachings of Parsons would be overcome.

In response to applicant's argument that Parsons fails to teach the locking pin holes recited by claims 7 and 8, a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. In a claim

drawn to a process of making, the intended use must result in a manipulative difference as compared to the prior art. See *In re Casey*, 152 USPQ 235 (CCPA 1967) and *In re Otto*, 136 USPQ 458, 459 (CCPA 1963). In this case, Parsons clearly teaches first, second and third holes (see attachment), and they are interpreted as being capable of performing the functions recited in claims 7 and 8.

Similarly, regarding claims 11 and 12, as shown on the attached copy of figures 1-3 of Wallin, at least two sides are shown wherein each side has a first hole and a slot, wherein at least one side has a second hole and at least one side has a third hole, and all the sides, holes and slots are interpreted to be capable of performing the functions listed in claim 11.

Finally, on the top of page 8, the applicant alleges "a hole is through the surface and surrounded on all sides by material," and "a slot is surrounded by material on less than all sides." No source was cited for these definitions.

According to Merriam Webster's Collegiate Dictionary - 10<sup>th</sup> Edition, a hole is "an opening through something," and a slot is "a narrow opening." The Examiner is using these definitions in interpreting the invention of Wallin. Clearly, then, Wallin teaches the aforementioned holes and slots.

### **Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jon A Szumny whose telephone number is (703) 306-3403. The examiner can normally be reached on Monday-Friday 8-4.

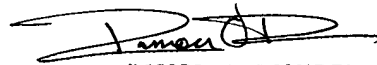
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The fax phone number for the organization where this application and proceeding are assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.



Jon Szumny  
Patent Examiner  
Technology Center 3600  
Art Unit 3632  
December 2, 2003



RAMON O. RAMIREZ  
PRIMARY EXAMINER  
ART UNIT ~~3632~~ 2

